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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Policy and Rules Concerning the
Interstate, Interexchange Marketplace

CC Docket No. 96-61 ✓

**REPLY COMMENTS
of the
GENERAL SERVICES ADMINISTRATION**

GEORGE N. BARCLAY
Associate General Counsel
Personal Property Division

MICHAEL J. ETTNER
Senior Assistant General Counsel
Personal Property Division

GENERAL SERVICES ADMINISTRATION
1800 F Street, N.W., Room 4002
Washington, D.C. 20405
(202) 501-1156

Economic Consultants:

Snively King Majoros O'Connor & Lee, Inc.
1220 L Street, N.W., Suite 410
Washington, D.C. 20005

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Summary

GSA responds to comments on issues concerning detariffing of mass market and contract services by interexchange carriers ("IXCs"). GSA concurs with other end users that the Commission should prescribe procedures for transitioning to a regime without filed tariffs as quickly as possible.

First, GSA explains that commenters provide no justification for further delays in detariffing bundled domestic and international services. GSA recommends that detariffing of bundled services proceed on the schedule established for domestic services, with IXCs allowed to file tariffs for mass market services, but not contract services, during the transition period. Also, GSA concurs with observations by several IXCs that the Commission should accelerate consideration of issues concerning detariffing of pure international services.

In addition, GSA urges the Commission to designate an early effective date for the requirement that IXCs display the rates, terms and conditions for their services on websites. GSA explains that contrary to claims by several parties, website posting should be required by September 30, 2000. This earlier deadline will give consumers more opportunities to gain experience with applicable website layouts and downloading procedures. The deadline will provide additional motivations for IXCs to accelerate cancellation of their tariffs. Moreover, GSA concurs with several using parties that the Commission should capitalize on the advantages of website posting by directing IXCs to make complete information on service offerings available in a format that is easier for consumers to use.

Finally, GSA explains that even if a nine-month transition is necessary for mass market services, this delay is not required for contract offerings and long-term service arrangements. Numerous users describe the difficulties they have experienced with tariffing requirements. Therefore, GSA urges the Commission to reduce the transition period for detariffing these offerings and arrangements — perhaps to only a few weeks as administratively needed to cancel present tariffs.

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**REPLY COMMENTS
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The General Services Administration ("GSA") submits these Reply Comments on behalf of the customer interests of all Federal Executive Agencies ("FEAs") on the Public Notice ("Notice") released on May 9, 2000. The Notice seeks comments and replies on issues concerning detariffing of interexchange services offered by nondominant interexchange carriers ("IXCs").

I. INTRODUCTION

On October 31, 1996, the Commission released the *Detariffing Order* directing nondominant IXCs to cancel their tariffs for interstate, domestic, interexchange services by the end of the nine-month period starting at the effective date of the order.¹ The *Detariffing Order* also prohibited IXCs from filing any new tariffs after the conclusion of the transition period.²

¹ *In the Matter of Policy and Rules Concerning the Interstate, Interexchange Marketplace*, Second Report and Order, released October 31, 1996 ("*Detariffing Order*").

² *Detariffing Order*, paras. 89-90; Notice, p. 2.

Several carriers sought reconsideration of the *Detariffing Order* and requested review by the Court of Appeals for the District of Columbia Circuit.³ This court stayed the *Detariffing Order* pending review.⁴ However, on April 28, 2000, the Court of Appeals upheld the Commission's requirements for detariffing of interstate, domestic, interexchange services. Several days later, the court lifted the stay, so that the rules originally adopted in this docket are currently in effect.⁵ The Common Carrier Bureau ("Bureau") established a "new" transition period starting on May 1, 2000, and ending on January 31, 2001.⁶

During the newly established transition period, IXC's may file tariffs for public or mass market services, but not tariffs for contract offerings or long-term service agreements.⁷ Moreover, pending review of the comments in response to the Notice, the Bureau recommends that the prohibition on new filings also apply to bundled domestic and international services.⁸ However, to provide further guidance concerning the transition, the Bureau seeks information on issues concerning detariffing of bundled domestic and international services, and posting of tariff information on IXC's websites.

GSA is concerned with tariffing issues because Federal agencies require domestic and international telecommunications services provided pursuant to contract tariffs and mass market tariffs by dozens of IXC's. Therefore, GSA submitted Comments in response to the Notice on May 31, 2000. Comments were submitted by

³ *In the Matter of Policy and Rules Concerning the Interstate, Interexchange Marketplace*, Order on Reconsideration, 12 FCC Rcd 15014 (1997) ("*Reconsideration Order*"), and Second Order on Reconsideration (1999) ("*Second Reconsideration Order*").

⁴ Notice, p. 2.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

10 additional parties. In these Reply Comments, GSA responds to the positions advanced by those parties.

II. COMMENTERS PROVIDE NO SUPPORT FOR FURTHER DELAYS IN DETARIFFING BUNDLED DOMESTIC AND INTERNATIONAL SERVICES.

The first issue designated for comment concerns detariffing of bundled domestic and international services during the transition period. The Bureau asks for comments on the appropriate schedule for detariffing bundled domestic and international services in view of the plan prescribed for domestic services and the fact that the Commission has not yet adopted a plan for detariffing international services. The Notice presents the tentative conclusion that bundled services should be treated as contract tariff offerings or long-term service arrangements, with new filings prohibited during the transition period.⁹

Several IXCs urge the Commission to delay mandatory detariffing of bundled domestic and international services. For example, Sprint recommends that the Commission allow nondominant IXCs to continue to file tariffs for their new and revised contracts and other long-term service arrangements that bundle domestic and international services during the transition period.¹⁰ In addition, GTE observes that the Commission has deferred issues concerning detariffing of international services to another proceeding.¹¹ Thus, according to GTE, there is no present justification for eliminating the tariffing requirements for international services, "whether bundled with domestic services or not."¹²

⁹ *Id.*

¹⁰ Comments of Sprint Communications ("Sprint"), pp. 2-3.

¹¹ Comments of GTE Service Corporation ("GTE"), p. 2.

¹² *Id.*

As end users of domestic and international services, GSA disputes the value of any additional delay. As GSA explained, the fastest possible transition to a regime without tariffs would be beneficial.¹³ From an end user's perspective, GSA concurs with the finding in the *Detariffing Order* that requirements for nondominant IXC's to file tariffs for interstate, domestic, interexchange services are not necessary to protect consumers, and that such requirements can indeed harm consumers by undermining the development of competition.¹⁴ Thus, GSA supports accelerated transition to a regime where filed tariffs are not employed, but data is maintained on websites of the IXC's.

Other end users also express concerns with continuing tariff requirements for bundled services. For example, a consortium of Business Consumers states:

The only thing that postponement of detariffing or *permissive* detariffing of bundled offerings would accomplish would be a continuation of a regime under which carriers can enter into contracts that they can later abrogate with impunity.¹⁵

In their comments leading to the *Detariffing Order*, another consortium of end users explained that disparate filing requirements for different forms of a service can impose substantial costs on customers and carriers.¹⁶

On the basis of these assessments, GSA recommends that the Commission require detariffing of unbundled domestic and international services according to a plan

¹³ Comments of GSA, p. 4.

¹⁴ *Detariffing Order*, para. 29.

¹⁵ Comments of Ad Hoc Telecommunications Users Committee, ABB Business Services, BP Amoco, Dana Corporation, Nestle USA, Schneider National Incorporated, the Securities Industry Association, Target Corporation and U.S. Bancorp. ("Business Consumers"), p. 5 (*italics in original*).

¹⁶ Notice, para. 95, citing Comments of Ad Hoc Users, the California Bankers Clearing House Association, the New York Clearing House Association, ABB Business Services, Inc., the Prudential Insurance Company, and the American Petroleum Institute.

that mirrors the procedure adopted for pure domestic services.¹⁷ In summary, GSA recommends that in the transition period IXCs only be allowed to file tariffs for mass market services, but not contract tariff offerings or long-term service arrangements.¹⁸ Moreover, all pre-existing and new bundled filings must be canceled at the end of the transition period.

Finally, several IXCs point to the benefits of detariffing international services as soon as possible. For example, WorldCom recommends that the Commission immediately initiate a proceeding that would determine whether international services offerings — like their domestic counterparts — should be detariffed.¹⁹ AT&T also states that the Commission should be able to complete consideration of detariffing for international services quickly.²⁰ GSA concurs with the views of these IXCs. To expedite consistency in the treatment of domestic and international services, and provide the benefits of detariffing to all users, GSA urges the Commission to adopt a detariffing plan for international services as soon as possible.

III. CONTRARY TO CLAIMS BY SOME PARTIES, CARRIERS SHOULD BE REQUIRED TO POST TARIFF INFORMATION ON THEIR WEBSITES WITHIN FIVE MONTHS.

The second issue for comment concerns posting of information concerning the rates, terms and conditions for services on websites maintained by IXCs.²¹ The Commission's rules require nondominant IXCs to make information available to the public on the current rates, terms and conditions for all detariffed interstate, domestic,

¹⁷ Comments of GSA, pp. 4-5.

¹⁸ *Id.*

¹⁹ Comments of WorldCom, p. 16.

²⁰ Comments of AT&T Corp. ("AT&T"), p. 6.

²¹ Notice, p. 4.

interexchange services.²² The rules also recognize website posting as a means of meeting this requirement, and direct IXCs to post the information on Internet websites in a timely and easily assessable manner.²³ In the Notice, the Bureau seeks parties' views on when IXCs should be required to implement these posting requirements.²⁴

Several parties contend that website posting should be deferred to the end of the transition period. For example, the Association of Communications Enterprises ("ASCENT") states that the Commission should strike a "workable balance" between the benefits to be derived from prompt posting of rates, terms and conditions, and the burden of accelerated implementation of the public disclosure requirement on small providers.²⁵ ASCENT claims that a balance would indicate a posting deadline of January 31, 2001, which is the prescribed ending date of the transition period.²⁶

Bell Atlantic also asserts that the Commission should not require posting on websites before January 31, 2001, because this deadline would provide the same "transition" period for posting as the Commission prescribed for detariffing.²⁷ According to Bell Atlantic, this coincident timing will prevent confusion that could result if information is required to be posted before the actual shift away from tariffs.²⁸

From GSA's perspective, potential confusion from duplication of information between filed tariffs and IXCs' websites does not counterbalance the benefits of earlier website posting. In fact, there were no rules prohibiting filing of rates, terms and

²² 47 C.F.R. § 42.10(a)

²³ 47 C.F.R. § 42.10(b).

²⁴ Notice, p. 4.

²⁵ Comments of ASCENT, p. 3.

²⁶ *Id.*

²⁷ Comments of Bell Atlantic, p. 1.

²⁸ *Id.*

conditions of service offerings on websites, even when filed tariffs were required. Moreover, the transition rules provide that carriers may detariff at any time before the end of the transition period.

Several commenting parties point to the potential benefits of website posting in a user-friendly format. For example, the Telecommunications Management Information Systems Coalition states that the Commission should require carriers to describe the rates, terms and conditions for service offerings with sufficient clarity and detail to permit consumers to make informed choices about the services.²⁹

Another user, Econobill, also describes the potential benefits of website posting and urges the Commission to require this form "immediately" — potentially by July 1, 2000.³⁰ Econobill states that an early posting requirement should apply regardless of whether an IXC has detariffed the offering. By this approach, consumers will have "meaningful, immediate and uniform access to all carrier website postings, not staggered, delayed access which would be confusing as IXCs detariff."³¹

Econobill also states that the Commission should clarify that mere website display of the exact withdrawn tariffs should not satisfy the posting requirement.³² Econobill observes that tariffs are essentially legal submissions that are not in "an easy to understand format" from a consumer's perspective.³³ Thus, website posting has the potential advantage of providing consumers with more and better information on service offerings. GSA concurs with this objective and urges the Commission to recognize

²⁹ Comments of Telecommunications Management Information Systems Coalition, p. 5.

³⁰ Comments of Econobill Corporation ("Econobill"), p. 2.

³¹ *Id.*

³² *Id.*

³³ *Id.*

Econobill's requests for requirements for clear and complete information. However, GSA believes that an "immediate" posting requirement is unnecessarily harsh.

GSA urged the Commission to prescribe a posting deadline of September 30, 2000, which is four months before the end of the nine-month transition period. GSA concurs with ASCENT that information should always be available to consumers either in tariff form or on websites.³⁴ An earlier website posting requirement is consistent with this requirement.

While postponing website posting until after the conclusion of the transition period would not be acceptable, GSA explained that an earlier posting deadline is advantageous for consumers.³⁵ In the first place, an earlier posting deadline provides consumers with more opportunities to gain experience with applicable website layouts and downloading procedures.³⁶ Secondly, an earlier deadline provides additional motivations for IXC's to accelerate cancellation of effective tariffs.³⁷ If IXC's are not able to meet a September 30, 2000 website posting deadline, they should be permitted to argue for exceptions on a case-by-case basis.

IV. PARTIES PROVIDE NO JUSTIFICATION FOR CONTINUING THE TRANSITION PERIOD FOR CONTRACT OFFERINGS AND LONG-TERM SERVICE AGREEMENTS.

GSA also urged the Commission to reduce the transition period for contract tariff offerings and long-term service arrangements, or eliminate the period entirely, allowing only the administrative time that is needed — probably two or three weeks — for IXC's

³⁴ Comments of ASCENT, p. 3.

³⁵ Comments of GSA, p. 6.

³⁶ *Id.*

³⁷ *Id.*

to cancel the tariffs.³⁸ At the outside, GSA urged the Commission to adopt a mandatory detariffing deadline of August 31, 2000 for these offerings to business users. This schedule will give IXCs four months from May 1 to cancel the tariffs.

While a nine-month transition may be appropriate for mass market services, such a slow transition is not necessary for contract offerings and long term agreements that are generally provided to larger and more experienced telecommunication users. As previously mentioned, the Business Consumers detail the difficulties that they have experienced with tariffing requirements for contract services because carriers assert that tariffs have precedence over contracts.³⁹

Moreover, under the rules prescribed in the *Detariffing* Order, IXCs are prohibited from making new tariff filings for contract offerings and long-term service arrangements during the transition period. Allowing existing tariffs for those services to remain effective during the transition period perpetuates application of the discredited filed rate doctrine. No rationale has been provided to demonstrate why customers receiving service under existing tariffs for contract and long-term service offerings should be treated differently from those for new service offerings. Both existing and any new contracts and other long-term service offerings reflect the bargains of the concerned parties. Tariffs are unnecessary to protect or inform anyone. The Commission recognizes this for new offerings and has stated no reason to continue tariffs for existing contracts and long-term service arrangements during a nine-month transition period.

In view of these considerations, GSA urges the Commission to proceed more rapidly to the point where filed tariffs are not employed for contract offerings and long

³⁸ *Id.*, pp. 6-7.

³⁹ Comments of Business Consumers, p. 5-6.

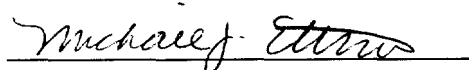
term service arrangements. To reach this objective, the Commission should cut the transition period for contract offerings and long term service arrangements to a maximum of four months, or reduce the transition period to the nominal time needed to cancel the current tariffs.

V. CONCLUSION

As a major user of telecommunications services, GSA urges the Commission to implement the recommendations set forth in these Reply Comments.

Respectfully submitted,

GEORGE N. BARCLAY
Associate General Counsel
Personal Property Division



MICHAEL J. ETTNER
Senior Assistant General Counsel
Personal Property Division

GENERAL SERVICES ADMINISTRATION
1800 F Street, N.W., Rm. 4002
Washington, D.C. 20405
(202) 501-1156

June 9, 2000

CERTIFICATE OF SERVICE

I, MICHAEL J. ETTNER, do hereby certify that copies of the foregoing "Reply Comments of the General Services Administration" were served this 9th day of June, 2000, by hand delivery or postage paid to the following parties.

The Honorable William E. Kennard,
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

The Honorable Harold Furchtgott-Roth,
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

The Honorable Susan Ness,
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

The Honorable Gloria Tristani
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C 20554

The Honorable Michael K. Powell
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C 20554

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W. TW-A325
Washington, D.C. 20554

Chief
Competitive Pricing Division
Federal Communications Commission
445 12th Street, S.W., TW-A225
Washington, D.C. 20554

Editorial Offices
Telecommunications Reports
1333 H Street, N.W., Room 100-E
Washington, D.C. 20005

Ms. Edith Herman
Senior Editor
Communications Daily
2115 Ward Court, N.W.
Washington, D.C. 20037

International Transcription Service
1231 20th Street, N.W.
Washington, D.C. 20554

Michael J. Ettner